

IN THE MATTER OF MERCHANT MARINER'S DOCUMENT NO. Z-865552

Issued to: Benjamine C. Bengert

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1572

Benjamine C. Bengert

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.30-1.

By order dated 21 April 1966, an Examiner of the United States Coast Guard at Houston, Texas, suspended Appellant's seaman's documents for 2 months outright plus 4 months on 12 months' probation upon finding him guilty of misconduct. The specifications found proved allege that while serving as a wiper on board the United States SS DEL MUNDO under authority of the document above described, Appellant, on nine different dates between 9 March and 29 March 1961, sometimes at sea and sometimes in port, wrongfully failed to perform his duties. On three of these dates, one time at sea, it is alleged that the failure was due to intoxication.

At the hearing, Appellant elected to act as his own counsel. Appellant entered a plea of guilty to the charge and each specification.

The Investigating Officer introduced no evidence.

Appellant pointed out that on certain of the dates he had worked part of the day.

At the end of the hearing, the Examiner rendered a written decision in which he concluded that the charge and specification had been proved by plea. The Examiner then entered an order suspending all documents issued to Appellant for a period of 2 months outright plus 4 months on 12 months' probation.

The entire decision was served on 21 April 1966. Appeal was timely filed on the same day.

FINDINGS OF FACT

From 9 through 29 March 1966, Appellant was serving as a wiper on board the United States SS DEL MUNDO and acting under authority of his document. On nine different dates during the period involved, Appellant failed to perform his duties. Some of these failures occurred at sea, the others in port. On three of the occasions, one of which was at sea, Appellant's failure was because

of intoxication.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. It is urged that the outright suspension is excessive.

APPEARANCE: Appellant, pro se

OPINION

A two month outright suspension is not excessive for the nature and number of offenses proved.

ORDER

The order of the Examiner dated at Houston, Texas, on 21 April 1966, is AFFIRMED.

W. J. Smith
Admiral, United States Coast Guard
Commandant

Signed at Washington, D. C., this 26th day of July 1966.

INDEX

Examiner's Order

held not excessive